

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DELBERT EATON,

Plaintiff,

vs.

Civ. No. 15-190 KG/SCY

UNITED STATES OF AMERICA,

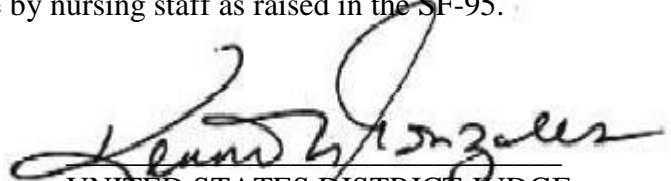
Defendant.

ORDER ON MOTION TO DISMISS (DOC. 18)

This matter comes before the Court upon Defendant's Motion to Dismiss Plaintiff's Claims Not Raised in his Tort Claims Notice for Lack of Jurisdiction (Motion to Dismiss), filed on September 15, 2015. (Doc. 18). Plaintiff filed a response on September 22, 2015, and Defendant filed a reply on September 28, 2015. (Docs. 19 and 22). The Court held a telephonic hearing on the Motion to Dismiss on July 13, 2016. At the hearing, Scott Borg represented Plaintiff while Assistant United States Attorney Roberto Ortega represented Defendant.

In so far as Plaintiff has withdrawn (1) his claims related to the color of the tourniquet, (2) his claims against Dr. Fred Wolf, and (3) his claim based on being coerced to file a false worker's compensation claim, and in so far as Plaintiff expressly makes no claim relating to the EGD surgical procedure itself, the Court DENIES the Motion to Dismiss (Doc. 18) as now moot.

The Court further ORDERS Plaintiff to file, on or before 5:00 p.m. on July 22, 2016, an amended complaint reflecting the withdrawal of the aforementioned claims and limiting any remaining claims to alleged care or lack of care by nursing staff as raised in the SF-95.



UNITED STATES DISTRICT JUDGE